



# Report to the Minister of Justice Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the Calgary Courts Centre

in the City of Calgary, in the Province of Alberta,  
(City, Town or Village) (Name of City, Town, Village)

on the 2<sup>nd</sup> to 4<sup>th</sup> days of May, 2023, (and by adjournment  
year)

on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_),  
year

before Justice Wong, a Justice of the Alberta Court of Justice,

into the death of Ralph Stephens 27  
(Name in Full) (Age)

of Morley Reserve and the following findings were made:  
(Residence)

**Date and Time of Death:** January 7<sup>th</sup>, 2017 at 5:06 pm

**Place:** Foothills Medical Centre

### Medical Cause of Death:

("cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – *Fatality Inquiries Act*, Section 1(d)).

Gunshot wound to the abdomen

### Manner of Death:

("manner of death" means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – *Fatality Inquiries Act*, Section 1(h)).

Homicide

**Circumstances under which Death occurred:**

**Introduction**

A public fatality inquiry was ordered under the Fatality Inquiries Act into the death of Ralph Lorne Stephens. The Act requires that I identify the date, time, place, and circumstances of death and make any recommendations to prevent similar deaths. In addition, I was advised by Inquiry Counsel that the Fatality Review Board recommended an inquiry to “restore the public’s confidence” and help “clarify the case’s circumstances.”

The Fatality Inquiry was conducted in Calgary on May 2-4, 2023, and this constitutes my report to the public.

**Witnesses**

The court heard from the following witnesses.

1. Tom Hewitt – ASIRT investigator,
2. Sgt. Malacko – ERT supervisor,
3. Inspector White – retired RCMP,
4. Constable Wallace – ERT member,
5. Constable Penman – ERT member,
6. Corporal Smith - ERT member,
7. Corporal Gawne – Police Dog Handler, and
8. Kara Twoyoungmen.

In addition to the *viva voce* evidence a comprehensive Exhibit binder was tendered which contained relevant Medical Examiner’s records, ASIRT records, and RCMP records. An aerial surveillance video of the events in question (outside of the residence) was played in court.

A subpoena was served on Audley Stevens, the father of the deceased and homeowner of the residence where the death took place. He did not respond to the subpoena. Efforts had been made to notify the family members of the fatality inquiry and their right to attend as interested parties. I understand Inquiry Counsel had some out of court contact with family members, but they did not attend the pre-inquiry conference or the public fatality inquiry.

**Required Findings**

Based on the evidence I received I can conclude that Ralph Lorne Stephens died on January 7, 2017, at 5:06 pm at the Foothills Medical Centre in Calgary Alberta. He had been transported to that facility from Alarm 5061 Morley, Alberta where he had been shot and wounded by a member of the RCMP Emergency Response Team (ERT).

With respect to the circumstances of his death I refer to the Synopsis of Incident found in the ASIRT final report. The Alberta Serious Incident Response Team (ASIRT) was assigned to investigate this shooting to provide an independent and objective investigation rather than have the RCMP investigate a shooting involving one of their own members.

The Synopsis of Incident is reproduced below:

“On January 7, 2017, the RCMP, K Division, Major Crimes Unit South were planning the execution of Form 7 arrest warrants at four residences on the Morley Reserve to locate and arrest three people identified as: Ralph Lorne Stephens, John Audley

Stephens, and Deangelo Joshua Powderface, for the first degree murder of Lorenzo Bearspaw that occurred on January 01, 2017.

The warrants authorized entry into the named dwelling houses pursuant to section 529.4 of the Criminal Code without prior announcement for the purpose of arresting or apprehending any of the aforementioned people, subject to the condition that there are reasonable grounds to believe that prior announcement of the entry would exposed police or any other person to imminent bodily harm or death.

The task of executing those warrants was deemed high risk, considering that the people wanted were alleged to have committed murder and further intelligence indicated that they may be in possession of firearms. The RCMP Emergency Response Team (ERT) was called upon to develop a plan to execute the warrants.

At approximately 1600 hours on January 07, 2017, ERT simultaneously deployed two eight member teams at two neighbouring residences to execute the warrants. One of those residences was the home of Audley and Tilda Stephens, who are the parents of the affected person, Ralph Stephens. ERT approached the Stephens home in an overt manner during daylight hours. Police vehicles were driven up the lengthy driveway with emergency lights activated and/or sirens sounding. Investigation determined that some of the occupants of the home saw the approaching ERT vehicles and subsequently alerted other occupants within the home.

ERT members met with Audley Stephens at the doorway to the residence. They observed John Stephens inside the residence and promptly arrested him without incident. ERT proceeded into the home to look for the other suspects. Several people were located on the main level and additional people emerged from the basement of the residence. In total, 13 people, including some children, were in the residence when police entered the home.

Three ERT officers, including the subject officer Cst. Wallace, proceeded into the basement to check for additional people. They announced they were police with a warrant. As they progressed along an interior wall towards a doorway, a male voice (Ralph Stephens) yelled out words to the effect of, "Get the fuck out and leave me alone." The male was not seen. A single gunshot was then fired from the opposite side of the wall penetrating through the drywall and narrowly missing the approaching ERT members. The ERT officers called out 'shots fired' and began to egress the basement. While withdrawing, Cst. Penman deployed a CS gas canister into the basement as a diversionary tactic.

ERT officers evacuated the occupants of the home through the front door. Cst. Wallace ran towards the tree line on the west side of the residence to establish a sniper point. He positioned himself behind an old washing machine approximately 12 meters away from the house. In doing so he reported hearing a gunshot (a second shot) and the sound of breaking glass. He believed the shot came from the area of the south west corner basement window closest to him. Almost immediately after that shot a female later identified as Kara Twoyoungmen climbed out of the basement window. Cst. Wallace yelled commands at her to walk towards him. As

that was happening, Ralph Stephens emerged out of the same window with a shotgun in his hands. Cst. Wallace yelled commands at Ralph Stephens to drop the gun however those commands were ignored. Cst. Wallace described to investigators that Ralph Stephens moved towards him carrying a shotgun at waist level that was pointed towards him. Cst. Wallace feared for his safety and the safety of Ms. Twoyoungmen and responded by firing a single shot from his Colt 300 Blackout sniper rifle at Ralph Stephens striking him in the torso, causing him to collapse to the ground. Other ERT members converged on the scene to secure Ralph Stephens and the shotgun he carried. Emergency first aid was initiated at that point.

Ralph Stephens was then loaded into an RCMP vehicle and transported to an ambulance that was called to the scene. He was transported to the Foothills Hospital in Calgary where he was pronounced deceased.

The ERT made a second entry into the residence to ensure no other armed suspects were still inside. The residence was found to be empty.

The RCMP Forensic Identification Section (FIS) was called to conduct an examination of the scene. They examined the shotgun used by Ralph Stephens and identified it as a 12 gauge, Mossberg model 500 Tactical shotgun. At the time of seizure it was found to be loaded with three unfired Winchester brand shotshells. The pump action was in the forward firing position. FIS located only one fired shotgun shell and one shotgun wadding within the residence, however some civilian and police witnesses reported hearing more than one shot in the home. Some witnesses described hearing as many as four shots. The exact number of shots fired within the home by Ralph Stephens remains unclear, however it is believed he may have fired more than one. That belief is based upon the known fact that one shot was fired through the drywall in the direction of the ERT members leaving an eight cm diameter hole in the dry wall. According to Cst. Wallace's statement, he believed a second shot may have been fired out of the laundry room basement window just prior to Ralph Stephens crawling out of it. A review of the police radio communications revealed that 69 seconds after the first shot, a message was broadcasted over the radio saying, "We've got a shot fired out of the basement." The RCMP infrared helicopter video shows that within 10 seconds of that broadcast, Ralph Stephens emerged from the basement window carrying a shotgun and is shot by Cst. Wallace. The helicopter video shows the muzzle flash of Cst. Wallace's rifle and Ralph Stephens collapsing to the ground providing a time reference for the shooting at 1600 hours."

I find this Synopsis of Incident accurately described what happened on January 7, 2017, that resulted in the death of Ralph Lorne Stephens. I base this finding on the witnesses that were called at the inquiry and having viewed the helicopter video referred to in the Synopsis.

ASIRT issued a press release on June 6, 2019, that indicated no charges would be laid against Constable Wallace for shooting Ralph Stephens. Part of the press release reads as follows:

“Both objectively and subjectively, the man (Ralph Stephens) presented a risk of imminent grievous bodily harm or death to the officer (Constable Wallace), and potentially to the woman (Kara Twoyoungmen) who would have been in the line of fire. The officer was lawfully placed and acting in the lawful execution of his duty. In the circumstances, the force used was both reasonable and authorized under the Criminal Code. There being no grounds to believe that an offence was committed by a police officer, no charges will be laid.” (Names added by writer.)

Fatality inquiry reports cannot make any findings of legal responsibility. As a result, I will not comment on this decision by ASIRT.

I turn then to the question of whether there are any recommendations to be made to prevent similar deaths. The fatality inquiry focused on the warrant execution plan and tactics used. The events of January 7, 2017, resulted in two reviews. The first was the ASIRT investigation. There was also an internal RCMP ordered review conducted by Blair White, a retired Inspector with the RCMP.

### **ASIRT Critique**

In the ASIRT report the following comments were made in relation to the way the arrest warrants were executed,

“Even though the RCMP deployed specialized teams in the form of two ERT teams, whose training is specifically geared towards such tactical entries, additional consideration to the use of a trained negotiator and previous surveillance of the residences may have minimized the risk to enter the home not only to the civilian occupants within the house but the police officers themselves. There is no information to indicate surveillance of the residences was conducted prior to approaching the home. Surveillance may have allowed investigators to determine how many occupants were in the house, the presence of children and if the suspects were inside. Forced entry into the residence may have been delayed if investigators were aware of how many people were in the home and the plan to approach the home may have been altered accordingly to ensure the safety of all involved.”

While this was included in the ASIRT report, Tom Hewitt, the ASIRT investigator who testified at the inquiry, acknowledged that ASIRT was not tasked with assessing police tactics and did not have the necessary experience to do so.

Sergeant Malacko was the team lead for the ERT and was the officer responsible for preparing the plan for executing the search warrant. He was an experienced team leader, having conducted over eighty such operations. The plan he devised was approved by his superior officer before its execution. He explained that the decision was made to conduct an overt police action to contain the residence in question and call out the persons inside to effect any arrests. The Sergeant indicated other options were not available for several reasons.

Surveillance was not an option as they did not have definite information on where the persons they were to apprehend were located. Surveillance was not an option as the suspected location, the Stephens residence, was located within the Morley Reserve. Experience suggested that any attempt at surveillance would be detected by residents

within the Reserve and the police action would be reported to those being surveilled. The location of the Stephens residence inset into a wooded area also prevented surveillance before executing the warrants.

As for the use of a trained negotiator, this was not possible as ERT did not have a telephone number for the accused and therefore no way to communicate. Sergeant Malacko indicated that the crisis negotiator members had been engaged by Inspector Sage, the Sergeant's superior.

I am satisfied that these concerns or suggestions expressed in the ASIRT report were incorporated into the warrant execution plan and that the plan chosen by Sergeant Malacko, approved by Inspector Sage, was reasonable given the circumstances.

### **RCMP Independent Review**

Inspector Blair White was appointed by the RCMP to conduct an independent review of the shooting,

- a. To provide input regarding potential contraventions of the Code of Conduct.
- b. To evaluate the tactics and the use of force to determine if they were appropriate.
- c. To provide findings based on policy or law, no recommendations.

Inspector White retired from the RCMP in 2021. During his service he had oversight of operational units including the British Columbia lower mainland ERT. He conducted an 'independent' review in that he had not been associated with K Division of the RCMP, the Division involved in this shooting.

His report was entered as a part of the exhibit binder tendered by Inquiry Counsel. His findings were that,

1. There was no contravention of the RCMP Code of Conduct during the shooting.
2. There was an appropriate use of force.
3. The members acted in accordance with relevant policy considerations and acted in a manner congruent within their lawful expectations and justifications.

I mention these findings as an aside. His role in an Independent Review was quite specific and his report does not add anything to the circumstances of death already outlined.

However, Inspector White did make some observations and recommendations concerning the decision-making process to utilize ERT and the planning associated with the warrant execution plan. As I understand his observations and recommendations, Inspector White would have preferred to see Inspector Sage engaged much earlier in the decision to use the resources of the ERT and more clarity in what plans had been approved by the Inspector. He further indicated that it was not clear whether Crisis Negotiator members were engaged in the planning and execution of the operation. Lastly, a formal risk assessment document was not provided to ERT by the Major Crimes unit who had asked for ERT assistance.

These comments were described by Inspector White as administrative in nature or procedural, designed to ensure the best plan is developed for an operation involving ERT. He acknowledged that the warrant execution plan was appropriate given the circumstances and had no recommendations to prevent similar deaths in future. He

testified that these administrative recommendations would not control the subject's (Ralph Stephens) behavior and that is what led to his death.

As counsel for the RCMP indicated in closing submissions, the observations and recommendations made by Inspector White were concerning form and not substance as it related to the planning and execution of the operation. I agree with that characterization.

**Recommendations for the prevention of similar deaths:**

On reviewing the circumstances of this incident, I have no recommendations to make to prevent similar deaths from happening in the future. The ASIRT recommendations or observations regarding surveillance and use of a negotiator were not practical in the circumstances. The independent RCMP review disclosed administrative deficiencies in planning but concluded the operational plan devised was sound and executed properly.

The root cause of death in this case was the decision made by Ralph Stephens to resist arrest using force and to exit the residence armed in a manner that presented a lethal threat to Constable Wallace. There is no recommendation that comes to mind that would have controlled that behavior and prevented his death.

DATED June 26, 2024,  
at Calgary, Alberta.

*Original Signed*  
Justice Wong  
A Justice of the Alberta Court of Justice